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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1348

WORLDWIDE CHURCH OF GOD, INC., *et al.*,

Petitioners,

v.

SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
(California, Real Party in Interest),

Respondent.

REPLY BRIEF OF PETITIONERS

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Introduction

Pursuant to Rule 24(4) of the Rules of this Court, petitioners Worldwide Church of God, Inc., *et al.*, file this brief in reply to respondent's Brief in Opposition to Petition for Writ of Certiorari, filed with this Court on May 5, 1980.[1]

ARGUMENT

I.

Even on the Attorney General's Misstatement of the Record,[2] the Issues Presented by the Undisputed Facts of This Case Clearly Warrant Review on Certiorari.

For all of its allegations, the Brief in Opposition leaves so much uncontested that the case for certiorari now seems even more indisputably compelling:

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[1] Petitioners will be referred to herein collectively as "the Church." *See* Petition at 1 n.1 (identifying petitioners individually). Respondent will be referred to herein as "the Attorney General" and "the State," alternatively.

[2] *See* Part II *infra*.

1. It is not disputed that the questions presented for review are ripe for adjudication on the merits. Thus the Attorney General does not deny either (a) that the six challenged decisions of the Court of Appeal are final rejections of petitioners' federal constitutional claims by the highest court of the State in which a decision going to the merits of the challenged Superior Court orders could be had[3]; or (b) that a denial of relief by this Court would

[3] The Attorney General argues that "abstention" by this Court is "mandatory" in this case, Opposition at 17, because (a) the Church may yet receive an "adequate opportunity to vindicate [its] constitutional concerns in the state courts," (b) the Superior Court orders sustained below "are merely pretrial orders designed to facilitate the trial," and (c) it must be presumed that "the state courts [can] sort out the myriad legal and factual issues presented by the proceedings." *Id.* at 11. Nothing is said to explain how such "vindication" or "sorting out" might occur were this Court in fact to "abstain." The reason, of course, is that abstention doctrines are wholly inapplicable here—not only because this case arises on direct rather than collateral review, *cf. Worldwide Church of God, Inc., et al.* v. *State of California,* CV 79-0183 (C.D. Cal. 1979) (dismissing Church's §1983 action for equitable and other relief from Superior Court order confirming imposition of receivership), *appeal pending,* CA 79-3672 (9th Cir.), but also because the State's courts have, in fact, already adjudicated—and finally rejected—the Church's federal (as well as state) constitutional challenges to the Superior Court orders here at issue, *see* Petition at 2 n.3, 4 n.6, 17 n.26, 47 n.75, as the Attorney General has indeed acknowledged, *see id.* at 10 & n.19, and as the Brief in Opposition does not deny. And the mere fact that the judgments at issue sustain what may be styled "pretrial orders" cannot immunize those judgments from review by this Court, for those orders award the Attorney General the basic relief he claims as the State's due. *See* Petition at 7-8. Thus the Attorney General's claim that the Church seeks review of the judgments below at an unsuitably "early stage in the proceedings," Opposition at 17, must be rejected. The Church seeks review *not* of "the very filing and prosecution," in the abstract, of the underlying proceedings, *id.* at 11, but of final judgments sustaining particular discovery orders of impermissible scope and forbidden purpose, issued without sufficient basis in fact, that would, for most practical purposes, *conclude* the proceedings. *Contrast Synanon Foundation, Inc.* v. *California,* 100 S.Ct. 497 (1979) (Rehnquist, J., in chambers) (denying stay of action by State to redress alleged diversion of assets of group claiming that no such action by State could ever be justified under First Amendment).

leave the Church helpless either to avoid the threatened injury to its religious privacy and that of its members, or to obtain an adjudication of any of the questions set forth in the Petition—whatever might occur in any pending or future state court proceeding.[4]

2. It is not disputed that the discovery orders finally sustained below command the virtually open-ended public disclosure, by document production and oral interrogation, of decades of Church minutes, letters, diaries, pastoral communications, contribution lists, and essentially all other internal Church documents, however confidential—including not only all records and papers that could conceivably bear in any way on the Church's collections or disbursements of funds, its allocations of resources, or its contractual

[4] *See* Petition at 7. As the Church has pointed out, the discovery orders sustained below are directed not only at petitioners themselves, but also at third parties "who 'could not be expected to resist . . . by placing [themselves] in contempt.' *Eastland* v. *United States Servicemen's Committee,* 421 U.S. 491, 514 (1975) (Marshall, J., joined by Brennan and Stewart, JJ., concurring in judgment); *id.* at 501 n.14 (majority opinion)." Petition at 48 (footnote omitted). Because one "cannot always 'unring the bell' once the information has been released," *Maness* v. *Myers,* 419 U.S. 449, 460 (1975), and because the Brief in Opposition makes no attempt to deny that "compliance by [a] third person [could thus] frustrate any judicial inquiry," *Eastland, supra,* 421 U.S. at 514, it follows that the Church's federal constitutional right is to have the discovery orders at issue set aside now, and not merely to contest their direct enforcement after the fact. *See* Petition at 49 & n.78.

Awaiting this Court's disposition of the Church's petition, the Superior Court on April 2, 1980, continued until May 29, 1980, further proceedings to enforce the discovery orders at issue, but refused to stay the ancillary enforcement decree sustained in 2d Civ. No. 57294. Of course, the issues presented by the judgments below have not been mooted by the turnover to the State (commencing after this Court on May 2, 1980, denied a stay) of numerous documents seized from the Church during the court-imposed receivership in early 1979 and entrusted to the accounting firm of Peat, Marwick, Mitchell & Co., *see* Petition at 5 n.10, 7 n.14, and the Attorney General does not claim the contrary.

and employment relationships, but also numerous personal diaries, letters between ministers, theological memoranda, and other items of a purely ecclesiastical nature, such as unpublished page-proofs of "The Doctrine of the Worldwide Church of God," *see* Petition at 21 n.32, and internal communications describing or assigning tasks for the Church's Systematic Theology Project. *See id.*[5] Nor is it disputed that these sweeping orders were issued (a) without a judicial determination that the State's suspicions of financial misconduct by Church officers had any basis in fact,[6] and (b) without a judicial determination that the State's legitimate aims could be achieved by no less intrusive means than those sustained below. *Cf. United States* v. *Holmes*, 614 F.2d 985, 987-88 (5th Cir. 1980) (*per curiam*) (forbidding enforcement against bishop and director of Miletus Church of an IRS summons comparable in scope to the

[5] *See* Petition at 18-21, 26-31. Although the Attorney General incorrectly asserts that the Superior Court "carefully tailored the receivership to accomplish the narrow purposes of securing a financial audit," Opposition at 8; *see* Petition at 12-16 & n.23, the Attorney General does not even dispute the unlimited sweep of the discovery orders that were sustained below and that are the subject of this Petition.

[6] *See* Petition at 13 n.23, 29-31. Although the Attorney General himself undoubtedly believes that his suspicions were based on fact, the Superior Court candidly stated that it had formed "no belief that someone has done something wrong here," App. 279b, and pointed out that it had simply been "place[d] . . . on notice that there might conceivably be some problems on the part of Mr. Rader with reference to the Church." *Id.* at 185b. Moreover, no showing of "specific necessity" for an accounting *by individual petitioners* (assuming, of course, that any such showing can be adduced from the State's hearsay-based complaint or from the State's "evidence"), Opposition at 32, could possibly provide the factual basis for the trial court's orders compelling virtually open-ended discovery *from the Church itself*. In any case, only recently has the Attorney General repeated his basic claim, *see, e.g.*, App. 179b, that it is petitioners' simple "obligation to account"—not any factual showing of cause—"which forms the nexus of the [State's] action." Opposition to Motion for Summary Judgment as to Defendant Ralph K. Helge at 6, *People* v. *Worldwide Church of God, Inc.*, Super. Ct. No. C 267607 (filed April 17, 1980).

discovery orders sustained below, holding that Congress has forbidden any such "far-reaching" IRS examination of churches).[7]

3. It is not disputed that the discovery orders sustained below were sought and issued expressly on the theory that churches operating in California have no private rights in their possessions and papers, and that all church property in California is beneficially owned by the general public; indeed, the Brief in Opposition emphatically reaffirms to this Court the State's commitment to that theory. *See* Opposition at 18-25, 40-41.[8] Nor is it disputed that the Attorney General claims the power to secure such discovery orders regardless of whether the subject church is incorporated in California,[9] and to impose upon a subject church his interpretation of its by-laws.[10] Moreover, it is not dis-

[7] *See* Petition at 30-31. Certainly the Attorney General cannot plausibly argue that he must be allowed to proceed by civil suit against the Church and its officers because, other than the accused, only he has "clear" authority to do so. Opposition at 23. The State's intrusions upon religious liberty and privacy obviously are not rendered constitutional simply because the State may have eliminated the less intrusive means ordinarily available to redress financial misconduct by a church's leaders. In any event, the Attorney General's argument that members *as such* are unable to sue frankly concedes that members and others *as contributors*—who might have a contractual or a property interest in the use of their donations—stand on a different footing. *See* Opposition at 23 n.10. And even if only the State could sue, it would hardly follow that the State is free to compel discovery without limit.

[8] *See* Petition at 22-25, 32-36.

[9] *See* Petition at 13 n.22, 33 & n.56. Thus the Attorney General justifies his action against the Church both as an exercise of his authority to enforce state corporation laws, Opposition at 33, and as an exercise of his equitable power to supervise charities whether or not incorporated under state law. *Id.* at 21. That the Church happens to be incorporated in California is thus ultimately irrelevant to the Attorney General's assertion of power.

[10] In claiming that "[a] principal purpose of the instant suit is to enforce the provisions of the church's own Articles of Incor-

puted that the Church discloses its financial affairs in public reports and is, indeed, itself accused of no wrongdoing; that the Church does not solicit contributions from members of the general public[11]; and that its 70,000 members have never been alleged to disapprove the customary manner in which the by-laws of the Church have been construed and the Church accordingly governed and administered.

4. It is not disputed that the discovery orders sustained below were issued to permit the Attorney General to con-

poration against the officers who have violated them," Opposition at 36, the Attorney General offers as the only two examples of such "violations" (1) the supposed fraudulent misappropriation of Church assets, attributed to petitioner Rader, contrary to Article II (D); and (2) the supposed "rule by individual fiat," attributed to petitioners Rader and Armstrong, contrary to Article IV. Opposition at 36. Article II (D) merely serves as a rhetorical makeweight for the Attorney General, however, for that provision simply acknowledges that the Church is subject to a court's equitable power to redress fraudulent misappropriation of a church's assets—within the limits imposed by the Constitution. At issue here, of course, is not the *power* of a court, subject to those constitutional limits, to redress such misconduct, but rather the Superior Court's *exercise* of that power in issuing the discovery orders sustained below under the circumstances of this case, where the allegations of wrongdoing ultimately express only the State's purpose impermissibly to supervise church spending choices and internal church dealings and relationships. *See* Part II *infra;* Petition at 36-38, 41. As for the claim that the Church is not governed in compliance with Article IV because Church directors frequently defer to petitioners Armstrong and Rader, it is elementary that the State cannot forbid a church's board of directors to govern the church in any such manner where issues deemed by the church to be ecclesiastical—and thus subject, in the church's view, to hierarchical administration—are involved.

[11] Although the Attorney General hints otherwise to this Court, *see* Opposition at 20-21 & n.9, tithes and other voluntary contributions by Church members account for more than 80 percent of the Church's income, and unsolicited donations from an active support group of "non-member contributors," *see* Petition for Writ of Certiorari at 4 (No. 78-1720), known as "co-workers," account for nearly all the rest. *See id.*, Appendix at 3-4 (declaration of Willis J. Bicket, Assistant Treasurer of Church and of College). *See also* Petition at 23 & n.35.

tinue, and then to complete, the wholesale search and seizure of Church premises, property, and papers initiated by the Superior Court's *ex parte* receivership order of January 2, 1979. *See* Petition at 4-5 & n.10, 13 n.23, 29-30, 41-43.[12] Nor is it disputed that, like the receivership order initiating that search and seizure, the discovery orders here at issue (a) rest on no judicial finding of probable cause, and (b) present petitioners with completely general demands for information, coupled with demands for specific information of no conceivable relevance to the State's proffered goal of seeking an accounting. *See* Petition at 18-21, 28-30 & nn.52-53. Thus it cannot be—and it is not—disputed that the discovery orders sustained below utterly fail to meet basic Fourth Amendment standards, much less the far stricter standards that apply whenever the Attorney General's "investigative process tends to impinge upon such highly sensitive areas as [First Amendment] freedom[s]." *Sweezy* v. *New Hampshire,* 354 U.S. 234, 245 (1957) (Warren, C.J., announcing judgment).[13]

5. It is not disputed that the stay of defensive discovery sustained in 2d Civ. No. 57294 was entered and remains in force *only* because the Church exercised and is pursuing its unquestioned right to secure state and federal appellate

[12] It is thus beside the point that the exclusionary rule has not been applied in civil cases. *See* Opposition at 39 n.17. At stake here is not simply the exclusion of evidence already seized by the State, but the termination of an indiscriminate search and seizure that is not yet complete.

[13] *See* Petition at 28 n.52, 41-43 & n.71. In this context, it seems particularly ironic that the Attorney General should distinguish the orders upheld below from executive inquiries on the ground that the state judiciary here decides "what documents and testimony the executive will be permitted to elicit." Opposition at 32. For the undisputed fact is that the state judiciary here, deferring to the executive, has chosen to make no such independent decision. *See* Petition at 23-24, 31. And, in any event, as the Attorney General himself observes, "the judiciary is as much an arm of government as the executive." Opposition at 25.

review of the discovery orders challenged in this Petition, and that this stay not only serves as an enforcement device, but also works a continuing injury to the Church's reputation—as the State airs in public its accusations of financial and other misconduct by Church leaders while the Church is disabled from confronting and refuting the sources of the State's damaging allegations.[14]

6. Finally, it is not disputed that the coercive and comprehensive examination to which the judgments below subject the Church—including the means by which the State, through a conditional stay of defensive discovery, seeks to deter appellate challenges to its unbounded investigation of the Church's files and doctrines—is only one among a number of typically unchallenged instances of such "supervision of . . . religious corporations" which the State has undertaken.[15]

Even accepting the Attorney General's version of the record, therefore, this case calls upon the Court to decide

[14] *See* Petition at 7 & n.13, 44-46. Opposition at 10. The Attorney General's own description of the discovery obtained by the Church before the coercive stay was imposed, *see* Opposition at 10; R. App. 93-95, belies his bald claim that the Church "[has] obtained extensive discovery from the State." Opposition at 10. And although the State has, indeed, produced a total of nearly *twenty* separate Church documents—mostly non-financial in nature—pursuant to petitioners' discovery requests, the fact is that the Attorney General has refused to respond to—much less answer—interrogatories and requests for admissions seeking simply to ascertain the facts upon which he based his complaint, and the Superior Court has refused to compel him to do so. *See* Superior Court Minute Order of May 29, 1979.

[15] App. 327b. *See* Petition at 8 & n.15. The State's observation that "private plaintiffs may lack the resources . . . to litigate successfully against a corporate management with other people's money at its disposal," Opposition at 24 (footnote omitted), only highlights the far more pertinent disparity between the strength of most churches and the might of the State, armed with the power of taxation. That disparity surely helps to account for the ease and repeated success with which the State has evidently subdued religious organizations less able to resist than the Worldwide Church of God. *See* Petition at 8, 50.

whether a literally boundless investigation into decades of an undeniably legitimate church's inner life, justified on the remarkable proposition that church assets and documents belong to the general public, should be permitted to stand—where all constitutional objections to that investigation have been finally rejected below, and where the Attorney General pressing the investigation boasts that other churches subjected to similar oversight have acquiesced, and continue to acquiesce, short of trial and appeal.

II.

The Attorney General's Distortions of the Record Underscore the Importance of Plenary Review by This Court.

With what may be the best of intentions, the Attorney General has evidently translated the string of judicial victories the State has obtained below into what must be described as a license to reshape the facts to fit the Attorney General's own image of them.

For example, the "church records" that petitioner Rader's secretary "ultimately admitted" to have shredded, Opposition at 8, consisted entirely of duplicate Church documents and such "junk" mail as unsolicited pictures from *Hustler* magazine. R.App. 103. *See also* Opposition at 7, citing R.App. 61 (hearsay declaration by former relator Alvin E. Timmons that he was "advised" by unidentified third parties of document destruction), cited in Opposition at 4-5. And the Superior Court itself specifically ruled that the State has failed to substantiate its initial "suggestion and vague evidence" of culpable document destruction. App. 215b.[16]

[16] To support his claim that the State has offered "substantial evidence" of suspect removal of Church documents, the Attorney

The Attorney General also insists, for example, that the Superior Court's receivership order of January 2, 1979, was supported by evidence of "liquidat[ion]" of Church property, Opposition at 4, citing R.App. 61-62, 68, even though the Superior Court itself declared long before entering the discovery orders here at issue that the one worrisome below-value sale of Church property alleged by the State was a fiction, App. 174b, resting on "sheer speculation, conclusion, and hearsay." *Id.* at 183b.[17]

As for the Attorney General's peevish references to petitioner Rader's "lucrative" employment contract, Opposition at 5, and to the "luxury" expenditures by Church officers and emissaries, *id.* at 3; *see id.* at 6-7[18]; as for the

General calls this Court's attention, Opposition at 7, to a Church-employed engine mechanic's testimony that he saw Rader's chauffeur emerge from a car "with something in his hands. What, I don't know." R.App. 112.

[17] The Attorney General absurdly suggests, in addition, Opposition at 4, that a letter by petitioners Rader and Helge to Church members reporting that the Church's own auditors had uncovered misuse of Church funds by a *former* Church officer, and that the Church *itself* "[had] been able to either recover God's tithe money or obtain adequate assurance of its repayment," R.App. 65, constituted evidence in support of the January 2, 1979, receivership order. If anything, needless to say, such a letter was evidence that no receivership—much less the sweeping discovery orders directed at petitioners Rader and Helge, or at the Church—was warranted.

[18] The Attorney General speaks reprovingly to this Court of the "extravagant," "bizarre," "exorbitant," "astonishing," and "unbelievable" travel, lodging, public relations, and other expenses of key Church officers, *id.* at 3, 6-7, as though the State were permitted to determine, by its own notions of frugality and extravagance, what are proper and what are improper levels of spending by a church's officers in the performance of their duties.

Specifically, the Attorney General decries the amounts spent on international travel, lodging, and public relations by Osamu Gotoh, the Church's first diplomatic representative to the Far East, by petitioner Rader, and by petitioner Cornwall. *Id.* at 6-7. Even if the State were permitted to determine whether those who serve as a church's emissaries in worldwide missions should travel

Attorney General's claims of "self-dealing" by petitioner Rader, *id.* at 2-3[19]; and as for the Attorney General's allega-

economy fare or first class, the fact is that the annual travel expenses set out in the Church financial reports appended to the State's receivership application, *see* Declaration of Benjamin Chapman in Support of Application for Temporary Receiver, Ex. A, *People* v. *Worldwide Church of God* (filed January 2, 1979), represent only *four percent* of the Church's $70 million annual revenue. *Id.* at 4.

The Attorney General also insinuates that such expenses as Rader's expenditures on furnishings, mortgage payments, and a lone golf club for his official residence in Tucson, Opposition at 7, are *prima facie* evidence of "syphoning [*sic*] off and diverting to [private] use and benefit substantial sums which are assets [of the Church]." *Id.* at 2. But surely a senior church officer may perform his duties as a church representative in a home bought and furnished by the church. The Attorney General would not dare to question such expenditures if made by senior officials of churches older and larger than the Worldwide Church of God. That he has managed to exploit such expenditures by senior officials of the Church in this case as justification for the discovery orders sustained below illustrates the frightening ease with which the State may victimize less securely established religious groups.

Publicly disclosed in the Church's own financial reports, *see* Declaration of Benjamin Chapman, Ex. A & B, *supra,* these expenditures may well meet with the Attorney General's pinchpenny disapproval, but they can hardly be considered "fraudulent." And the mere fact that the Attorney General considers those expenditures spendthrift cannot conceivably justify the state court orders directing the Church itself to lay bare its internal communications for public inspection by the State. In truth permitting the Attorney General not to combat "fraud" but rather to supervise Church spending choices to satisfy himself that all Church funds are used "strictly for God's Work," Second Amended Complaint ¶12(b)—as the Attorney General interprets it—the orders of the Superior Court sustained below eviscerate precious First and Fourteenth Amendment rights of religious privacy and liberty. *Serbian Eastern Orthodox Diocese* v. *Milivojevich,* 426 U.S. 696, 711-17 (1976); *Surinach* v. *Pesquera de Busquets,* 604 F.2d 73, 77-78 (1st Cir. 1979). Such state-court invasions of federal constitutional rights cannot be saved even when euphemistically miscast as a lawsuit seeking "the prevention and correction of fraudulent misappropriation of assets dedicated to religious and charitable purposes." Opposition at 27.

[19] Rader became an officer, a director, and a member of the Church in 1975. Declaration of Stanley R. Rader in Support of

tions that the Church is a dictatorship operating behind a "dummy" board of directors, *id.* at 5, and that deference by Church directors to petitioners Rader and Armstrong in certain matters shows that the Church is not being governed in accord with its by-laws, *id.* at 5, 6[20]—all of

Application for Order Removing Temporary Receivership ¶5 (filed January 4, 1979). The plane-leasing transaction to which the Attorney General refers, Opposition at 3, occurred in 1967; the advertising agency, *id.* at 2, was formed in 1969; and the Beverly Hills home, *id.*, was purchased in 1971. Thus any notion that his transactions with the Church as its attorney or accountant constitute "self-dealing transactions" by the fiduciary of a charitable trust must be dismissed. Rader's "lucrative employment contract" with the Church, Opposition at 5, signed in 1976, was dictated not by Rader but by the leader of the Church, petitioner Armstrong, Transcript of January 10-12, 1979, at 145-46, who also had enlisted Rader's aid in leasing an airplane for the Church when all other possibilities had been exhausted, Declaration of Stanley R. Rader in Support of Application for Order Removing Temporary Receiver ¶3, *supra*, and who directed the purchase by Rader of the Beverly Hills home, *id.* ¶8; Transcript of January 10-12, 1979, at 154-56. Rader paid for that home himself—although the Church did make some of the payments, which Rader forthrightly reported as compensation to him. *Id.* Thus the State's assertion that Rader "pocket[ed] the proceeds" from its sale, Opposition at 2, is an innuendo unworthy of the Attorney General. The Tucson home has at all times been an official Church residence, which the Brief in Opposition does not deny. At all events, for the State to invoke notions of self-dealing *or* of extravagance in defense of the discovery orders sustained below in this case is to beg a core constitutional question presented by this case: do the First and Fourteenth Amendments permit state agents to utilize civil discovery to further the purpose of supervising the spending choices and internal relationships of undeniably legitimate churches?

[20] The Attorney General's allegations, of course, rest on the indefensible premise that a church's board of directors may not defer to the church's leaders on matters that the church considers ecclesiastical. Moreover, to whatever extent current church custom diverges from a church's written governing instruments, the Attorney General's attack on such current custom assumes that the church's members have not ratified—or may not ratify—customary modifications of the church's organizational plan. Even if this remarkable assumption were sustainable, demanding open-ended disclosure of internal church communications is hardly calculated to meet the problem at all—and certainly not in the least intrusive available way. The alleged "failure" of Church leaders to comply

these claims simply confirm that the State's untenable purposes in securing discovery through the orders sustained below are (1) impermissibly to dictate spending choices by church officers according to the State's sense of frugality and extravagance, *see* Petition at 36-37; (2) impermissibly to impose legal norms pertaining to fiduciary duties of trustees on a church's internal relationships and arrangements for the sheer sake of imposing such norms, *see id.* at 37-40; and (3) to redesign a church's polity and leadership in blatant derogation of the right to free exercise of religion and the separation of church and state. *See id.* at 40-41.[21]

CONCLUSION

It bears emphasis that the substantiality and significance of the constitutional claims presented here do not depend upon accepting petitioners' and rejecting respondent's version of the record. *See* Part I *supra.* But, having repeatedly treated this Court's denials of review in earlier and less central phases of this litigation as though such denials were endorsements of his factual and legal views,[22] the

with the Church's articles of incorporation and by-laws, *id.* at 5, can neither justify nor explain the discovery orders and ancillary enforcement decree sustained below.

[21] This account of the Attorney General's distortions of the record is not exhaustive but simply illustrative. *See, e.g.*, nn.5, 6, 11, 14 *supra.*

[22] *See, e.g.*, State's Brief in CA 79-3672, *supra* n.3, at 15-16 (filed March 17, 1980) ("[The Church has] sought and [has] been refused two Petitions for Writ of Certiorari by the United States Supreme Court . . . [and] . . . one of [those] Petitions sought review of the very receivership orders which it is here claimed were so constitutionally defective that [the district court] should have enjoined their enforcement. Therefore, with the same facts before [it] as had been presented to [the district court], our nation's highest court did not see fit to interfere with the state court proceedings."). This Court declined review in No. 78-1720 (challenging state court denial of extraordinary relief from receivership,

Attorney General could hardly be expected to accord more circumspect treatment to a denial of certiorari in this most crucial case. Confirmed in his inclination to transform into fraud and self-dealing those religious spending and other protected church practices on which he frowns, and to convert into culpable obstruction a church's decision to defend itself in the courts from the State's inquisition, the Attorney General plainly could not be relied upon, as the respondent court presumed he could, to use "good judgment and discretion," App. 219b, *see* Petition at 31, in pursuing those churches or synagogues of which he or his constituents may happen to disapprove at any given time.[23] The case for plenary review thus could scarcely be more clear.

Respectfully submitted,

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which had been stayed pending state court review on direct appeal), *cert. denied,* 100 S.Ct. 172 (1979), and No. 79-205 (challenging order directing petitioner Rader to answer questions at deposition), *cert. denied,* 100 S.Ct. 230 (1979).

[23] It is not surprising, therefore, that organizations representing an unprecedented variety of religious faiths, and an unprecedented multitude of private citizens, have joined with petitioners in urging this Court to grant review. *See* Brief of *Amicus Curiae* National Council of Churches of Christ in the U.S.A., filed March 7, 1980, at 8.